

# PUBLIC SESSION MINUTES

June 9, 2006

State Capitol  
10<sup>th</sup> & L Streets, Senate Room 112  
Sacramento CA

Members Present: Larry L. Renner, RCP, President  
Gopal Chaturvedi  
Sandra Magaña  
Murray Olson, RCP  
Richard L. Sheldon, M.D.  
Barbara M. Stenson, RCP

Members Absent: Scott J. Svonkin

Staff Present: LaVonne Powell, Legal Counsel  
Stephanie Nunez, Executive Officer  
Christine Molina, Staff Services Manager  
Liane Zimmerman, Assistant Executive Officer  
Stephanie Aguirre, Staff Services Analyst

## CALL TO ORDER

The Public Session was called to order at 9:03 a.m. by President Renner. A quorum was present. President Renner informed the Board that Mr. Svonkin requested to be excused from this meeting.

President Renner introduced Sandra Magaña as the newest member of the Board. Ms. Magaña stated that she was happy to have been approached to serve on the Board and thanked everyone for their warm welcome.

## HEARING IN THE MATTER OF THE PETITION TO REINSTATE LICENSURE FOR KEVIN TERRY

Administrative Law Judge Leonard L. Scott presided over the hearing in the matter of the petition for reinstatement of licensure filed by Kevin Terry.

Both sides presented their cases.

## CLOSED SESSION

The Board convened into Closed Session, as authorized by Government Code Section 11126(c), subdivision (3).

### APPROVAL OF FEBRUARY 10, 2006 PUBLIC SESSION MINUTES

Dr. Sheldon moved to approve the February 10, 2006 Public Session minutes as written.

M/Sheldon /S/Chaturvedi

Unanimous: Chaturvedi, Olson, Renner, Sheldon, Stenson

Abstained: Magaña

MOTION PASSED

### RCP RECOGNITION: MS. LISA PICKETT, DAVID GRANT MEDICAL CENTER, TRAVIS AFB

President Renner presented Lisa Pickett with the RCP Recognition award. Ms. Pickett is a Technical Sergeant with the United States Air Force and is currently assigned to the 60<sup>th</sup> Medical Operations Squadron at Travis Air Force Base in Fairfield, California where she has been involved with the Cardiopulmonary/Respiratory Program for the past four years.

Ms. Pickett launched a stellar curriculum into the 21<sup>st</sup> century by developing an interactive electronic classroom designed to challenge students with critical thinking and problem solving prior to engaging in direct patient care. She also upgraded clinical training with the creation of respiratory/pulmonary application workbooks, computer-based training, and audiovisual support of lesson plans which has been praised by students and sought after by local instructors. Ms. Pickett participated in the development of a ventilator management protocol for USAF headquarters, directed the risk-management program, setting standards now used throughout the Department of Defense. In addition to California licensure, Ms. Pickett possesses the RRT, CPFT, and EMT credentials, is certified as an NRP and ACLS Instructor, and has earned the National Asthma Education Certification. Her relentless actions represent the values of service, dignity, responsibility, teamwork, trust and accountability to her patients, colleagues, and the profession.

President Renner thanked Ms. Pickett for her dedication to the respiratory care profession.

### CALIFORNIA CODE OF REGULATIONS SECTION 1399.391 RE: UNLICENSED PRACTICE, CITATION & FINE

#### Consideration to Accept Board of Vocational Nursing and Psychiatric Technicians' Comments Received March 29, 2006

President Renner informed the Board that a letter was received from the Board of Vocational Nursing and Psychiatric Technicians (BVNPT) regarding the proposed regulation a day or two after the deadline.

Dr. Sheldon moved to accept the BVNPT's letter dated March 29, 2006.

M/Sheldon/S/Stenson

Unanimous: Chaturvedi, Olson, Magaña, Renner, Sheldon, Stenson

MOTION PASSED

#### Discussion/Vote

Dr. Sheldon moved that the Board approve the recommendations/responses proposed regarding California Code of Regulations Section 1399.391.

M/Sheldon/S/Olson

Unanimous: Chaturvedi, Olson, Magaña, Renner, Sheldon, Stenson

MOTION PASSED

#### EXECUTIVE OFFICER'S REPORT

*(Stephanie Nunez)*

#### Workforce Study Update

Ms. Nunez informed the Board that the workforce study is progressing well, and that approximately 3,500 licensees have been randomly selected to receive the upcoming survey. She reported that on May 18<sup>th</sup>, nine experts participated in a review of the survey at the Institute for Social Research in Sacramento. She further explained that the surveys should take an individual approximately 30 minutes to an hour to complete, and the ISR anticipates mailing the surveys in mid-July.

#### Unlicensed Personnel Update (Home Care, Polysomnography, Pulmonary Function Testing, and Hyperbaric Oxygen Therapy)

Ms. Nunez stated that in March, she and Steve Vinci, past CAMPS President, gave a presentation at the Med-Trade's Annual Conference in Las Vegas, Nevada regarding the upcoming regulations related to home care.

Ms. Nunez stated that in May, Steve Vinci along with Bob Achermann, Director of CAMPS, as well as two other CAMPS members and herself met with the chief of the Medical Device Safety & Youth Tobacco Enforcement Section and some of her staff.

The purpose of the meeting was to share with DHS the Board's recommendations as they pertain to DHS, as suggested by the Joint Commission on Boards. The focus of the meeting was Home Care. Polysomnography was also of interest as there seems to be a new trend of providers trying to convince DHS that a CPAP for sleep is not respiratory care. I provided DHS with copies of the Board's Polysomnography and Hyperbaric Oxygen Therapy reports and reviewed our recommendations.

Ms. Nunez reported that overall, the meeting was very informative and enlightening. The section

chief is new and is very motivated. Ms. Nunez also shared the Board's new home care brochures which lists DHS as a contact and invited them to participate in any of the Board's outreach events. The DHS expressed their appreciation for our recommendations but noted that new regulatory changes would probably take several years. The DHS also noted that they would also need to do additional research to determine the best way to approach some of our recommendations and the resources required for implementation.

As it relates to pulmonary function testing, Ms. Nunez met with the Executive Director of the Medical Board, and its legislative staff person, regarding pulmonary function testing. She indicated that the Medical Board representatives were very responsive and supportive of the Board's recommendation to require medical assistants to complete a training course. Their only concern was ensuring that the training course be readily available and requested additional information from the Board as it moves forward.

#### CRT/RRT and Licensed RCP Statistics

Ms. Nunez explained that the Board began tracking credentialing statistics in response to the NBRC's requirement to pass the RRT examination within three years of earning a CRT credential. She explained that the impact of the new requirement will likely be better reflected in the next two to three years.

Ms. Magaña departed from the meeting at 12:00 p.m.

#### EXECUTIVE COMMITTEE REPORT (Larry L. Renner, RCP, President)

#### Consideration to Modify Response Process to Scope of Practice Inquiries

President Renner explained the current process for responding to scope of practice inquiries.

Ms. Powell expressed her recommendation to change the scope of practice response process due to potential liability issues. She stated that there is another concern related to the existing process in that a Board member responds to each inquiry, which could ultimately relate to a future enforcement case, resulting in a violation of the separation between the Board's prosecutorial and decision making processes. Ms. Powell suggested that all scope of practice responses be removed from the web, and recommended that staff review each scope of practice inquiry and, if needed in rare instances, send the inquiry to an expert not associated with the Board for response. She also suggested that staff refer inquiries to their own or their employer's legal counsel for interpretation of the law.

She added that the Dental Board and the Board of Vocational Nursing and Psychiatric Technicians have encountered legal issues as a result of a scope of practice inquiry.

Dr. Sheldon moved that the existing process be amended to authorize the Executive Officer to review and respond to all inquiries and, if needed, forward to an expert for response. He also requested that the existing scope of practice responses be removed from the Board's website.

M/Sheldon/S/Stenson

Discussion ensued.

Dr. Sheldon modified his motion to authorize the Executive Officer to review and respond to all inquiries and, if needed, forward to an expert for response. The Executive Officer will also review existing responses currently posted on the Board's website and, at her discretion, remove those that may raise potential liability issues. Additionally, future responses are not to be posted on the website.

M/Sheldon/S/Stenson

Ayes: Chaturvedi, Renner, Sheldon, Stenson

Nays: Olson

MOTION PASSED

#### Policy on Board Member Per-Diem

President Renner explained that the purpose of this policy is to establish clear rules for Board member per-diem reimbursement and entertained questions regarding the proposal before them.

Dr. Sheldon moved to adopt the proposed Board Member Per-Diem Policy as written.

M/Sheldon/S/Chaturvedi

Unanimous: Chaturvedi, Olson, Renner, Sheldon, Stenson

MOTION PASSED

#### General Report

President Renner explained that committee assignments need to be amended due to Mr. Sten's term expiration and Ms. Magaña's recent appointment. He requested that members submit a list of the committees on which they would be interested in serving.

President Renner announced the remaining 2006 meeting dates, and asked the members if the schedule dates should be maintained. The board concurred with maintaining the dates as originally scheduled.

#### CALIFORNIA DEPARTMENT OF HEALTH SERVICES PANDEMIC INFLUENZA PREPAREDNESS & RESPONSE PLAN

Ms. Nunez explained that the issue of pandemic influenza preparedness was initially brought to the Board's attention when Mr. Olson raised the issue during his first meeting.

She added that the Department of Consumer Affairs has recently taken an active role in establishing a plan of action in response to a future pandemic. Ms. Nunez stated that the Board's laws and regulations will be reviewed to ensure respiratory care practitioners would be able to continue to practicing during such an event.

In addition, the Department of Health Services is overseeing the State's pandemic planning and response efforts and earlier this year requested comments regarding its draft Pandemic Influenza Preparedness and Response Plan. Unfortunately, the Board was not made aware of the solicitation for input until May, 2006. At that time, Ms. Nunez requested that Mr. Olson review the information and prepare a letter identifying any suggested amendments related to respiratory care.

President Renner moved that the proposed letter be sent to the DHS as written.

M/Renner/S/Stenson

Unanimous: Chaturvedi, Olson, Renner, Sheldon, Stenson

MOTION PASSED

## EDUCATION COMMITTEE REPORT

*(Barbara M. Stenson, RCP, Chair)*

### Law and Professional Ethics Course - Update

Ms. Stenson reported that the current statistics related to the law and professional ethics course are impressive. The AARC reported that 204 individuals have passed the course on the first attempt. Of those, 110 were AARC members, 84 were new applicants for licensure, and 10 were non-AARC members.

The CSRC has had 378 individuals pass the course on their first attempt. Of those, 23 were members, 51 were non-members, and 304 were students.

Ms. Stenson stated the overall course requirement is off to a good start.

### Oversight & Standards of Respiratory Care Educational Programs - Review

Ms. Stenson requested that the Board establish communication with CoARC to explain the Board's interest in the oversight and standards for respiratory care educational programs.

President Renner moved that the Education Committee and staff schedule a meeting with CoARC to demonstrate the Board's interest and attempt to work collaboratively with CoARC to address any issues or concerns. He also urged Board participation in the accreditation process of California programs to obtain a better understanding of CoARC's determination as to which programs obtain approval, and which programs are denied. Mr. Renner also asked the Education Committee to determine how the Board should proceed if it receives a complaint regarding a California program.

M/Renner/S/Sheldon

Unanimous: Chaturvedi, Olson, Renner, Sheldon, Stenson

MOTION PASSED

LEGISLATIVE/LEGAL AFFAIRS COMMITTEE REPORT  
(Vacant, Chair)

Legislation of Interest

President Renner entertained questions regarding the 2006 Legislation of Interest.

Ms. Nunez stated that H.R. 964 includes a provision to recognize the services of respiratory therapists under the plan of care for home health services.

Dr. Sheldon moved that the Board send a letter of support for H.R. 964.

M/Sheldon/S/Chaturvedi

Unanimous: Chaturvedi, Olson, Renner, Sheldon, Stenson

MOTION PASSED

Ms. Nunez also advised the Board that H.R. 4824 would amend title XVIII of the Social Security Act to provide coverage for cardiac and pulmonary rehabilitation services.

Dr. Sheldon urged the CSRC, and any other interested parties, to write a letter of support for H.R. 4824.

OUTREACH COMMITTEE  
(Richard L. Sheldon, M.D.)

Outreach Activities - Update

Ms. Nunez mentioned some of the outreach events that staff have already attended, and provided information regarding upcoming scheduled events.

She added that, sometime in the future, the Board may wish to consider some form of recognition for those RCPs that have been licensed for 25 years or more.

Ms. Powell added that the Board of Pharmacy presents a similar recognition to their licensees.

Dr. Sheldon suggested distributing some type of patch for RCPs to place on their smocks indicating the number of years they've been practicing in the field.

Ms. Nunez stated that she thought a patch was a very good idea. She added that the 25-year licensees could receive a special patch, and that the Board could also distribute another type of patch to licensees who have reached their 5 and/or 10 year mark.

PUBLIC COMMENT ON ITEMS NOT ON AGENDA

Jeffrey Espinoza, Chair, Advanced Practice Commission, CSRC: Mr. Espinoza referred to the CSRC's June 1<sup>st</sup> letter to the RCB regarding the status of respiratory education. The CSRC's

concern is that hospitals have to expend resources to provide additional training and education to new respiratory graduates, as they are not currently able to provide needed care due to the lack of laboratory hours and structured, supervised clinical hours, especially in the areas of neonatal intensive care. Mr. Espinoza stated that another concern is the shortage of RCPs and requested the Board's assistance in resolving these issues.

Dr. Sheldon asked if the CSRC is ready to ask for a 4-year program.

Mr. Espinoza was advised that his concerns are included as part of the Board-sponsored workforce study currently being conducted by the Institute for Social Research. Mr. Espinoza inquired as to what the Board plans to do once the workforce study is complete.

President Renner replied that at this time, the Board is in the beginning stages of the study, and that the direction of the Board will be determined once the results of the survey are available.

Ray Hernandez, CSRC President, Greater Bay Area Region: Mr. Hernandez added that he believes that the Board is doing everything it can to address the needs of the profession.

Mark Goldstein, CSRC President Elect: Mr. Goldstein expressed his concerns regarding the changes to the scope of practice process, specifically the removal of the scope of practice responses currently available on the Board's website. Mr. Goldstein feels that if the scope of practice responses are removed from the website, staff workload will significantly increase since the information will no longer be readily available to individuals.

#### ADJOURNMENT

The Public Session Meeting was adjourned by President Renner at 1:45 p.m.

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LARRY L. RENNER  
President

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STEPHANIE A. NUNEZ  
Executive Officer